

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN WESLEY WILLIAMS,

Plaintiff,

v.

M. GAMBOA, et al.,

Defendants.

No. 1:21-cv-00155-NONE-EPG (PC)

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, REQUIRING PLAINTIFF TO PAY THE FILING FEE IN FULL WITHIN THIRTY DAYS, DIRECTING THE CLERK OF COURT TO APPLY THE \$400 FILING FEE FROM CASE NO. 1:20-cv-00287 TOWARD THE FILING FEE IN THIS ACTION AND TO SERVE A COPY OF THIS ORDER ON FLORA LEE

(Doc. Nos. 2, 5)

John Williams (“plaintiff”) is a state prisoner proceeding *pro se* with this civil rights action. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 9, 2021, the assigned magistrate judge entered findings and recommendations, recommending that, “[p]ursuant to 28 U.S.C. § 1915(g), Plaintiff’s application to proceed in forma pauperis ([Doc.] No. 2) be DENIED,” and that “Plaintiff be directed to pay the \$402.00 filing fee in full if he wants to proceed with this action.” (Doc. No. 5 at 4-5.)

Plaintiff was provided an opportunity to file objections to the findings and recommendations. Plaintiff filed his objections on February 23, 2021. (Doc. No. 8).

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
2 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
3 magistrate judge's findings and recommendations are supported by the record and by proper
4 analysis insofar as they recommend denial of plaintiff's motion proceed in forma pauperis and
5 that plaintiff be required to pay the \$402 filing fee in full.

6 In his objections, plaintiff points to a \$400 filing fee submitted on his behalf on December
7 18, 2020 and credited toward the then most recent case before this court brought in plaintiff's
8 name: *Williams v. Samboa*, E.D. Cal. Case No. 1:20-cv-00287. Plaintiff asserts that the \$400
9 was erroneously credited to *Williams v. Samboa*, when it was actually intended as the payment of
10 the filing fee associated with *this* case and therefore that it should be credited toward the filing fee
11 (now \$402) due in this case. (Doc. No. 8.) Some logistical difficulties arose in accommodating
12 this request because plaintiff also indicated that the \$400 belonged to his mother. Accordingly,
13 the court initiated the process of returning the fee to plaintiff's mother. However, before that
14 process was completed, the court received correspondence from plaintiff's mother authorizing the
15 application of the \$400 filing fee to the above-captioned case. The court will therefore arrange to
16 credit those funds toward the \$402 filing fee in this action. However, if plaintiff wishes to
17 proceed with this action, he must pay the additional \$2.00 of the required \$402.00 filing fee to
18 the court within thirty (30) days of the date of this order.

- 19 1. The findings and recommendations issued on February 9, 2021, (Doc. No. 5), are
20 adopted insofar as they recommend denial of plaintiff's application to proceed in
21 forma pauperis and that plaintiff be required to pay the \$402 filing fee in full;
- 22 2. Pursuant to 28 U.S.C. § 1915(g), plaintiff's application to proceed in forma
23 pauperis, (Doc. No. 2), is denied;
- 24 3. The \$400 filing fee credited toward *Williams v. Samboa* shall be applied toward
25 the filing fee in the above-captioned matter;
- 26 4. If plaintiff wants to proceed with this action, plaintiff shall pay the remaining
27 \$2.00 of the \$402.00 filing fee in full within thirty days (30) of the date of service
28 of this order;

5. The Clerk of Court is directed to send a copy of this order to plaintiff's mother, addressed to: Flora Lee, 7301 Crenshaw Blvd., #305, Los Angeles, California, 90043.

IT IS SO ORDERED.

Dated: March 8, 2021

Dale A. Dugd

UNITED STATES DISTRICT JUDGE